1943

File No. Electric II
43

Legal Department

BRANCH

Subject: Rules and Notification under the Indian Electricity Act, 1910

UP 4/E)

File No. Electric II/43

Gen. 194 e.

56-B

Office of the R.L.A.

A revised draft notification is sent herewith. The P.W.D. is requested to verify whether it carried out the intention.

2. Clause (b) of sub-section (3) of section 4 of the Indian Electricity Act, 1910, inter alia provides that the Provincial Government may, on the application or with the consent of the licensee, a and if the licensee is not a local authority, after consulting the loca authority (if any) make amendments in the terms and conditions of a license. It is clear from the papers that in the present case so far as the revised rates suggested by the Electrical Engineer to Government and P.W.D. are concerned, the Dharwar Borough Municipality has not been consulted. It is obligatory to consult the said municipality before the proposed amendment are made.

3. Before the amendments are finally notified, it will be necessary to follow de novo the ~~procedure~~ procedure laid down in rule 24 read with rule 15 of the Indian Electricity Rules, 1937.

Id/-

Remembrancer of Legal Affairs.

U.R. to P.W.D., No. 911, dated the
5th January 1943.

MSR.
16/7.

Office of the R.L.A.

When the R.L.A. gave his opinion on the last occasion (Para. 3 of ur. to P.WD. No. 911 dated 5-1-43) he had not before him rule 24 of the Indian Electricity Rules, 1937 as amended by the notification of the Central Boilers Board No. A-803 dated the 29th October 1941. In view of the amended rule he agrees that it is not necessary to follow the procedure de novo as laid down in rule 15, but as already stated in para. 2 of his opinion it will be necessary to consult the Municipality before the proposed amendments are made, for, so far as the Municipality is concerned the question will be governed not by rule 24 but by section 4(3)(b) of the Act. Under that section where a licensee is not a local authority the Provincial Government is given power to make alterations or amendments in the terms and conditions of a license only after consulting the local authority concerned. It appears from these papers that the alterations in the rates for the supply of electrical energy proposed by the Electrical Engineer in the present case and approved by Government have not been referred to the Dharwar Borough Municipality and that body will have to be consulted before they are notified as proposed.

Id/- P.N.M.

6/4.

Remembrancer of Legal Affairs.

U.R. to P.W.D., No. 2514, dated the 7th April 1943

MSR.
16/7.

Office of the R.L.A.

The main objections raised to the notification on p. 45 ante appear to be :-

(1) that the original clause 10(a)(iii) of the license at p. 4 is now made to include energy supplied for cooking and appliances (including radios) other than medical appliances, and that the Government thereby fixes a maximum of two annas per unit for such energy;

(2) that the substitution of "4 B.H.P." in place of " 3 K.W." materially alters the license;

(3) that the provision about the meter rates is ultra vires;

(4) and that the deletion of the proviso as to bulk supplies and rebates in respect of Government buildings is an alteration in the license.

2. As regards (1), the answer is that if the energy for the specified purposes had not been so included, it would fall under original clause 10(1)(b) for which there already exists a maximum rate. That rate could be altered by the Board and Government to two annas per unit. It is thus a mere drafting re-arrangement to include the specified purposes under clause 10(1)(a) and not a question of adding anything new.

3. As regards (2), it appears from the letter of the Electrical Engineer at p. 35 ante that no material change is effected. It is, however, for the administrative department to advise whether the substitution of "per B.H.P. connected" in place of "per K.W. installed" effects any material change.

4. As regards (3), the R.L.A. has already advised that such provision is ultra vires. Clause 4 of the notification at p. 45 ante, therefore, be cancelled.

5. As regards, (4), the only party affected adversely by the delection of the proviso about rebate etc. is Government and since Government has accepted the Boards recommendation on this point it seems needless to consider whether the Board has power to make the recommendation. In the result the R.L.A. agrees with paragraph 3 of the Electrical Engineer's letter at p. 53 ante.

Id/- P.N.M.
18/5.
Remembrancer of Legal Affairs.

U.R. to P.W.D. No. 3650, dated the 19th May 1943.

MSR
16/7.